

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Civil Revision Petition No.2896 of 2017

ORDER:

This civil revision petition, under Article 227 of the Constitution of India, is filed by the unsuccessful petitioners-defendants assailing the order, dated 15.02.2017, of the learned Senior Civil Judge, Gadwal, passed in IA.No.11 of 2017 in IA.No.313 of 2016 in OS.No.49 of 2016 filed under Order VIII Rule 1(A)(3) read with Section 151 of the Code of Civil Procedure, 1908, requesting to receive on file, certified copy of letter no.94/ Pet/ 1-1/ 2016, dated 15.12.2016, addressed by the Sub-Inspector of Police, Gadwal Police Station, to the Superintendent of Police, Jogulamba Gadwal.

I have heard the submissions of *Sri N. Ashok Kumar*, learned counsel appearing for the revision petitioners at the stage of admission. I have perused the material record.

The introductory facts, in brief, are as follows:

The plaintiffs-respondents herein brought the afore-said Suit against the defendants-petitioners herein for declaration of title and other reliefs. In the said suit, they filed the afore-stated I.A.No.313 of 2016 for grant of a temporary injunction. During the course of enquiry in the said application, the defendants wanted to file the afore-mentioned document as an exhibit for consideration at the time of disposal of the said Interlocutory Application filed by the plaintiffs for grant of temporary injunction. However, the said application filed by the defendants for receiving the document on file was resisted by the plaintiffs. By the orders impugned, the trial Court dismissed the said petition, *inter alia*, observing that the said document is not necessary for effective adjudication of the Interlocutory Application filed by the plaintiffs for grant of temporary injunction and that the said document is no way helpful

to the case of the defendants. Aggrieved thereof, the defendants filed this revision petition.

Learned counsel for the petitioners would submit that on a petition/ complaint made by the plaintiffs an enquiry was conducted by the SHO/ S.I of Police and that on that he sent the report in the form of a letter to the Superintendent of Police and, therefore, the said document has relevance and that the document should have been received as one of the documents of the defendants for the purpose of enquiry in the Interlocutory Application filed by the plaintiffs for grant of a temporary injunction.

In the light of the facts and the submissions, there is no need to dilate on the facts of the case once again. The only request of the defendants is that this document may also be permitted to be exhibited on their side during the course of enquiry in the Interlocutory Application filed by the plaintiffs for temporary injunction. The law is well settled that mere according permission to mark a document or marking a document does not amount to proof. It is also well settled that at the time of considering an application for receiving a document on file, the Court will only consider as to whether sufficient grounds are made out for granting leave and receiving the document on file but the Court will not consider the probative value of the document or the weight to be attached to the document. The relevancy and/ or the probative value of any document is to be considered at the time of appreciation of evidence and while adjudicating the issues or points involved in the Interlocutory Application like the present Interlocutory Application filed by the plaintiffs for grant of a temporary injunction. As rightly pointed out by the learned counsel for the defendants, the trial Court ought not to have made any observations about the probative value and relevancy of the document when it is considering an application to receive the document on file as, at that stage, there is no need to consider the said aspects.

Viewed thus, this Court is of the considered view that the revision petition can be disposed of with appropriate directions.

In the result, the Civil Revision Petition is allowed and the impugned order is set aside. As a sequel, IA.No.11 of 2017 is allowed and the document, certified copy of letter No.94/ Pet/ 1-1/ 2016, dated 15.12.2016, is received on file subject to proof, admissibility and relevancy. The trial Court is directed to permit the defendants to exhibit the said document in 'R' or 'B' series as the case may be during the course of enquiry in the Interlocutory Application filed by the plaintiffs for temporary injunction and consider the same along with the other documentary evidence of both the sides while disposing the said application in accordance with the procedure established by law. It is made clear that this Court did not express any opinion on the probative value or the weight to be attached to the said document, which is received on file subject to proof, admissibility and relevancy.

Miscellaneous petitions pending, if any, shall stand closed.

30.06.2017
Vjl

M. SEETHARAMA MURTI, J